

## **SUBCHAPTER VIII-A. RIGHTS OF CRIME VICTIMS AND WITNESSES.**

### **Article 45.**

#### **Fair Treatment for Certain Victims and Witnesses.**

##### **§ 15A-824. Definitions.**

As used in this Article, unless the context clearly requires otherwise:

- (1) "Crime" means a felony or serious misdemeanor as determined in the sole discretion of the district attorney, except those included in Article 46 of this Chapter, or any act committed by a juvenile that, if committed by a competent adult, would constitute a felony or serious misdemeanor.
- (2) "Family member" means a spouse, child, parent or legal guardian, or the closest living relative.
- (3) "Victim" means a person against whom there is probable cause to believe a crime has been committed.
- (4) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution in a criminal action concerning a felony, or who by reason of having relevant information is subject to being called or is likely to be called as a witness for the prosecution in such an action, whether or not an action or proceeding has been commenced. (1985 (Reg. Sess., 1986), c. 998, s. 1; 1989, c. 596, s. 1; 1998-212, s. 19.4(a), (b).)

##### **§ 15A-825. Treatment due victims and witnesses.**

To the extent reasonably possible and subject to available resources, the employees of law-enforcement agencies, the prosecutorial system, the judicial system, and the correctional system should make a reasonable effort to assure that each victim and witness within their jurisdiction:

- (1) Is provided information regarding immediate medical assistance when needed and is not detained for an unreasonable length of time before having such assistance administered.
- (2) Is provided information about available protection from harm and threats of harm arising out of cooperation with law-enforcement prosecution efforts, and receives such protection.
- (2a) Is provided information that testimony as to one's home address is not relevant in every case, and that the victim or witness may request the district attorney to raise an objection should he/she deem it appropriate to this line of questioning in the case at hand.
- (3) Has any stolen or other personal property expeditiously returned by law-enforcement agencies when it is no longer needed as evidence, and its return would not impede an investigation or prosecution of the case. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property whose ownership is disputed, should be photographed and returned to the owner within a reasonable period of time of being recovered by law-enforcement officials.
- (4) Is provided appropriate employer intercession services to seek the employer's cooperation with the criminal justice system and minimize the employee's loss of pay and other benefits resulting from such cooperation whenever possible.

- (5) Is provided, whenever practical, a secure waiting area during court proceedings that does not place the victim or witness in close proximity to defendants and families or friends of defendants.
- (6) Is informed of the procedures to be followed to apply for and receive any appropriate witness fees or victim compensation.
- (6a) Is informed of the right to be present throughout the entire trial of the defendant, subject to the right of the court to sequester witnesses.
- (7) Is given the opportunity to be present during the final disposition of the case or is informed of the final disposition of the case, if he has requested to be present or be informed.
- (8) Is notified, whenever possible, that a court proceeding to which he has been subpoenaed will not occur as scheduled.
- (9) Has a victim impact statement prepared for consideration by the court.
- (9a) Prior to trial, is provided information about plea bargaining procedures and is told that the district attorney may recommend a plea bargain to the court.
- (10) Is informed that civil remedies may be available and that statutes of limitation apply in civil cases.
- (11) Upon the victim's written request, is notified before a proceeding is held at which the release of the offender from custody is considered, if the crime for which the offender was placed in custody is a Class G or more serious felony.
- (12) Upon the victim's written request, is notified if the offender escapes from custody or is released from custody, if the crime for which the offender was placed in custody is a Class G or more serious felony.
- (13) Has family members of a homicide victim offered all the guarantees in this section, except those in subdivision (1).

Nothing in this section shall be construed to create a cause of action for failure to comply with its requirements. (1985 (Reg. Sess., 1986), c. 998, s. 1; 1989, c. 596, s. 2.)

#### **§ 15A-826. District attorney legal assistants.**

In addition to providing administrative and legal support to the district attorney's office, district attorney legal assistants are responsible for coordinating efforts within the law-enforcement and judicial systems to assure that each victim and witness is treated in accordance with this Article. (1985 (Reg. Sess., 1986), c. 998, s. 1; 1997-443, s. 18.7(e); 2015-241, s. 18A.8(c).)

#### **§ 15A-827. Scope.**

This Article does not create any civil or criminal liability on the part of the State of North Carolina or any criminal justice agency, employee, or volunteer. (1985 (Reg. Sess., 1986), c. 998, s. 1.)

**§§ 15A-828 through 15A-829.** Reserved for future codification purposes.